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Federal Communications Commission
Washington, D.C. 20554

SEP 26 2001

MM 00-391

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The Honorable Wally Herger
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, D.C. 20515

RECEIVED

SEP 28 2001

Dear Congressman Herger:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Thank you for forwarding the recent letter from your constituent, Mrs. Cherylyn Kerley, regarding the transition to digital television (DTV). She suggests that the Commission allow smaller stations the option of returning their digital channels now and delaying their conversion from analog to digital operation until the 2006 DTV transition deadline.

In establishing service rules for the DTV transition, the Commission expressly rejected requests that it allow smaller market and noncommercial stations to make an immediate transition to digital television at the end of the transition, eliminating the need to construct and operate a second facility during the transition. While sensitive to the economic challenges facing small market broadcasters and the funding problems facing noncommercial stations, the Commission rejected this approach as undermining its concurrent DTV and analog broadcasting policy, including simulcasting, which was premised on broadcasters operating an NTSC and a DTV station until the end of the transition. The Commission noted, however, that it could revisit this conclusion during any of its DTV periodic reviews.

There is a process stations may use to seek an extension of the DTV construction deadline. In the *Fifth Report and Order* with respect to DTV, the Commission noted that it will grant an extension of the construction deadline where a broadcaster has been unable to complete construction due to circumstances that are either unforeseeable or beyond the licensee's control if the licensee has taken all reasonable steps to resolve the problem expeditiously. Such circumstances include, but are not limited to, the inability to construct and place in operation a facility necessary for transmitting DTV, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints, or lack of equipment necessary to transmit a DTV signal. The Commission delegated authority to the Mass Media Bureau to grant two such six-month extensions of time, after which extension requests will be referred to the Commission.

The Commission is currently considering petitions for reconsideration of the *Report and Order* in the first DTV periodic review proceeding. Some of these petitions have asked the Commission to extend the applicable construction deadlines for stations in smaller markets, citing costs and hardship, and those petitions are pending.

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Page 2—The Honorable Wally Herger

The Commission will include your constituent's letter in the record of the DTV periodic review proceedings and consider all views carefully. I hope this is responsive to your concerns.

Sincerely,



Roy J. Stewart
Chief, Mass Media Bureau

WALLY HERGER

20 DISTRICT, CALIFORNIA

PLEASE REPLY TO:

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Congress of the United States
House of Representatives
Washington, DC 20515-0502

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WAYS AND MEANS**

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September 4, 2001

Chairman Michael Powell
Chairman
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Dear Chairman Powell:

I recently received the attached correspondence from a constituent of mine, Mrs. Cherylyn Kerley, regarding the adjustment of the DTV Build-out Deadline. I would appreciate your review and consideration of Mrs. Kerley and a thorough response at your earliest possible convenience.

Thank you for your consideration of this request. I look forward to hearing from you.

Sincerely,

Wally
WALLY HERGER
Member of Congress

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WH:mc
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SEP-13-01 12:09 From:HON. WALLY HERGER

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HON. WALLY HERGER
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U.S. House of Representatives
2268 Rayburn House Office Building
Washington, DC 20515
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FACSIMILE TRANSMISSION

DATE: 9/12

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COMMENTS:

Letter from George Lynn Herley - Thanks

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The Honorable Wally Herger
2268 Rayburn House Office Building
United States Senate
Washington, DC 20515

Mrs. Cherylyn Kerley

RE: Endorsement for Adjustment of the DTV Build-out Deadline of May 1, 2002,
and the Early Return of the Digital Channel Allowing for a Prompt Auction.

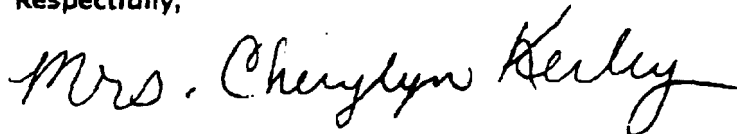
Dear Representative Herger:

I heard on TBN that all small station owners are being required to build digital stations by May 1, 2002. I also heard that this would be a serious economic and logistical dilemma for many if not most of the independent stations, even forcing some of them off of the air.

Whereas, the number of households that have digital televisions is very small and there would basically be no viewers for the new stations, I am asking you to support giving those smaller stations an option of returning their digital channel now, which would allow for an early auction of the retrieved frequency by the government. Electing stations would then be relieved of the May 1, 2002 build-out deadline, and allowed to convert to a digital operation by the December 31, 2006 transition deadline for all analog stations.

I would appreciate a response on this very important matter. Please let me know if you support my request.

Respectfully,



Mrs. Cherylyn Kerley